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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,897	01/29/2002	Toyoki Ue	JEL 310561	5161

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James E. Ledbetter, Esq.
STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
Suite 850
1615 L Street, N.W.
Washington, DC 20036

EXAMINER

GANTT, ALAN T

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/057,897	Applicant(s) UE ET AL.	
	Examiner Alan T. Gantt	Art Unit 2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/424,843.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Response to Arguments***

Applicant's arguments filed 6/24/04 have been fully considered. Applicant primarily argues that there is support within the Specification for the language of the previous Office action that had been given a 35 USC 112, first paragraph rejection. Applicant has provided a citation along with an explanation regarding the rejected claim language. The examiner accepts the explanation and citation and subsequently accepts applicant's arguments as to why his invention is not met by Mahany. Thus, the Mahany reference is replaced by Noneman et al. The Noneman reference looks to receive an acknowledgment signal between specified inactivity time intervals and when it receives this acknowledgment the data rate of data passed on by the transmitting unit is changed to an peak rate. If there is no acknowledgment signal received, then it is assumed that the reception quality was not acceptable and the data packets are sent at the intermediate rate. Thus, Noneman meets applicant's claim language for all five claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 31-35 rejected under 35 U.S.C. 102(b) as being anticipated by Noneman et al.

Regarding claims 31, 33, and 35, Noneman discloses a method and apparatus for packet data transmission and reception system having two inactivity time intervals that are used along

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with a variable data rate including an idle rate a default or intermediate rate and a peak rate.

When no packet data is available the data rate is reduced to an idle rate to free most of the system capacity. The idle rate allows for the transmission of idle packets to allow the receiving end of the channel to stay synchronized with the transmitter. If the packet data transmission resumes before the first inactivity timer expires, the transmission rate returns to the peak rate. However, if the inactivity continues until the first activity timer expires the data rate maintained at the idle rate. If packet data becomes available for transmission between the time the first inactivity timer expires and the second inactivity timer expires, the data packets are transmitted at the intermediate rate, which is lower than peak. After the transmitting source receives an acknowledgment from the receiving end of the channel, the data rate switches back to peak (col. 2, lines 14-50).

Thus, if after the transmitting source has resumed transmitting packets but has not received an acknowledgment signal, the data rate utilized is at the intermediate rate. If an acknowledgment signal is received, the rate changes to peak. This shows that when ideal reception conditions are met then the communication terminal sends this information to the transmitting source (base station) in the form of an acknowledgment signal. If not, the transmitting source stays at the intermediate rate. A non-acknowledgment is the communication terminal communicating that non-ideal conditions exist. The reception circuitry and the transmission rate control circuitry must be located at the transmitting source to accomplish this and as such are inherently separate from the communication terminal. The transmission rate control circuitry of the transmitting source changes the rate based on the information received at the reception circuitry that was sent by the communication terminal and, as shown in the citation,

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decreases the rate under non-ideal reception quality (col. 5, lines 30-67). The communication terminal monitors, judges and then transmits the conditions between the two inactivity periods by way of an acknowledgment or lack of such without specifying transmit rate control information.

Regarding claims 32 and 34, Noneman reduces the data rate when conditions are non-ideal or increases the data rate and upon the receiving the acknowledgment signal. The subsequent sending of this signal (indicating more ideal conditions) between inactivity intervals will restore the peak rate (col. 2, lines 14-50 and col. 5, lines 30-67).

Conclusion

Any inquiry concerning this communication from the examiner should be addressed to Alan Gantt at telephone number (703) 305-0077. The examiner can normally be reached between 9:30 AM and 6 PM within the Eastern Time Zone. The group FAX number is (703) 872-9306.

Any inquiry of a general nature or relating to this application should be directed to the group receptionist at telephone number (703) 305-4700.

Alan T. Gantt

Alan T. Gantt

October 15, 2004



NICK CORSARO
PRIMARY EXAMINER